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Personnel Investigation Form

Investigative Summary

Deputy Transcribed Interviews

Deputy Aura Sierra's Transcribed Interviews

Exhibits:

- A- Homicide's Investigation Book.
- B- Additional CSI reports and a CD containing crime scene phonographs.
- C- CD containing radio transmissions.
- D- Diagrams by Deputy
- E- Diagrams by Deputy Sierra.
- F- Photographs of <u>area around K-Mart and Stonebryn Drive</u>.
- G- Photographs of Stonebryn Drive.

Miscellaneous Documents

Administrative Rights Form.

Witness Admonition forms.

Letter of Opinion and Review from the Los Angeles County District Attorney's Office.

Copy of the Foot pursuit Evaluation form submitted by Carson Station

Copy of Carson Station In-Service dated 06/05/06

Copy of Deputy Daily Log and Unit Details dated 06/05/06

Memorandum from Chief Ronnie Williams to Captain Karyn Mannis requesting an administrative investigation

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE:

September 16, 2008

OFFICE CORRESPONDENCE

FILE NO.

SH2172209

IV2178251

FROM:

ERIC B. SMITH, COMMANDER

LEADERSHIP & TRAINING DIVISION

TO:

KARYN MANNIS, CAPTAIN

INTERNAL AFFAIRS BUREAU

SUBJECT:

EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS

HIT SHOOTING

The purpose of this memo is to notify you of the Review Committee's findings and recommendations concerning the Hit Shootig incident which occurred on June 5, 2006.

The Committee met on September 11, 2008, and consisted of myself and Commanders Stephen B. Johnson (Custody Operations Division) and Thomas E. Spencer (Detective Division).

The Committee deemed:

as Unfounded the allegation that DEPUTY violated the Department's Manual of Policy and Procedure Section 3-01/025.10, Unreasonable Force, and/or 3-01/025.30: Use of Firearms and Deadly Force

The Committee recommended that Deputy receive NO DISCIPLINE.

EB\$:YLW:yw



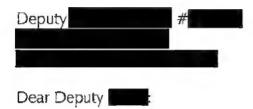
County of Los Angeles Sheriff's Department Headquarters



4700 Ramona Boulevard Monterey Park, California 91754-2169

September 19, 2008

IAB File #2178251



On June 5, 2006, it was alleged that you used unreasonable force by shooting an unarmed suspect who was attempting to enter a house.

Internal Affairs Bureau was subsequently tasked with conducting an independent investigation into this matter.

Based on facts developed by the Internal Affairs Bureau, the Executive Force Review Committee has determined that this allegation is **unfounded**.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Karyn Mannis, Captain Internal Affairs Bureau

CC:

Todd Rogers, Captain Carson Station



LOS ANGELE COUNTY DISTRICT ATTURNEY'S OFFICE BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K, SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI . Director

November 19, 2007

Captain James Curtis
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 06-0351

L.A.S.D. DR # 006-07356-1698-065

Dear Captain Curtis:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 5, 2006, non-fatal shooting of Thomas Wilkinson by Los Angeles County Sheriff's Department (LASD) Deputy

acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of this incident at 12:45 p.m. The District

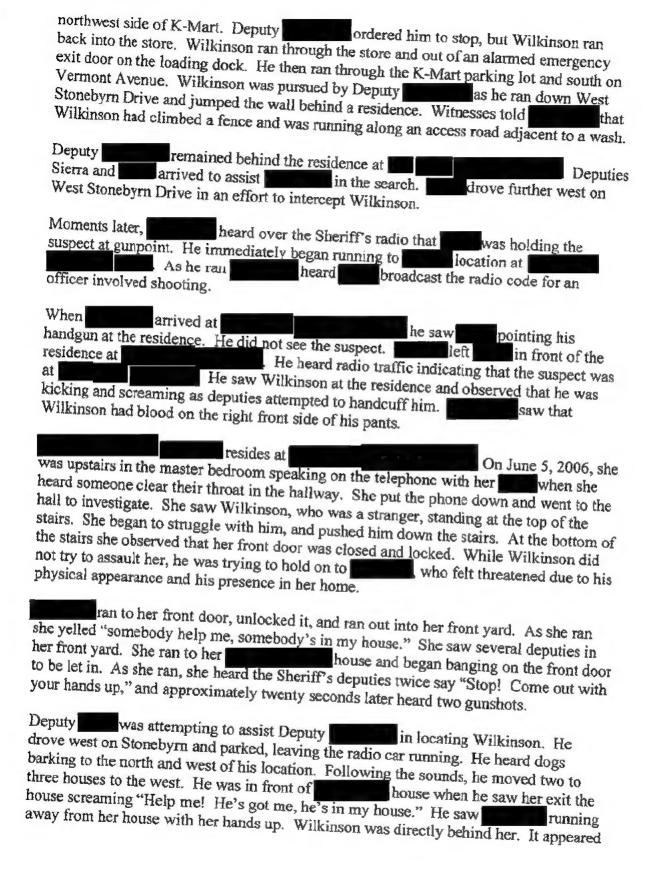
The District Attorney's Command Center was notified of this incident at 12:45 p.m. The District Attorney Response Team, consisting of Deputy District Attorney Linda S. Reisz and Senior District Attorney Investigator responded to the scene. They were given a briefing and walk-through by LASD investigators.

The following analysis is based upon the police reports, witnesses' statements, experts' reports and scientific test results relating to this matter submitted to this office on September 10, 2007, by Detective Philip Martinez of the LASD. Compelled statements, if any exist, were not considered in our analysis.

FACTUAL ANALYSIS

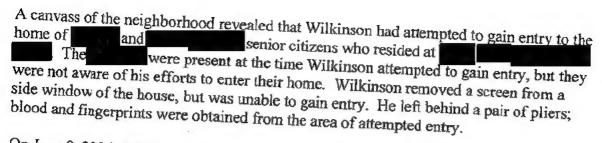
On June 5, 2006, shortly after noon, LASD Deputies and Aura Sierra were assigned to the Carson Sheriff's Station, working uniformed patrol. Each deputy was assigned to a separate one-person marked patrol car. Deputy responded to a call of a petty theft in progress at the Big K-Mart, located at 902 West Sepulveda Boulevard in Carson. Deputies and Sierra responded to the call to assist Deputy The deputies each covered a separate store exit.	
Deputy saw Thomas Wilkinson, who matched the suspect description that had been broadcast in the radio call. Wilkinson emerged from the emergency exit door on the	

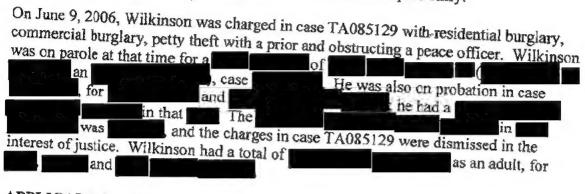
Captain James Curtis November 19, 2007 Page 2 of 5



Captain James Curtis November 19, 2007 Page 3 of 5	
to that that had just broken free from Wilkinson's grasp after a struggle. pointed his gun at Wilkinson, and broadcast that he was detaining a suspect at	
Wilkinson was running when first encountered him. described Wilkinson six feet two inches tall and 230 to 240 pounds. Wilkinson appeared to be upset, and all shoot me." bridge ordered, "let me see your hands" and "get down on the ground." Wilkinson did not comply and began to turn his body; he had one hand up. He continue to yell "just shoot me" while concealing his left hand from	
believed Wilkinson was dangerous and might harm him. He also believed he say movement within the house; he feared that someone else was inside the residence and that Wilkinson would return and take a hostage.	V
Wilkinson charged at Deputy who, in fear for his life, fired one round at Wilkinson. Wilkinson turned and ran towards the house. In an effort to prevent Wilkinson from entering the home and taking a hostage, fired again. In spite of his that he was in an officer involved shooting.	is
When broke free from Wilkinson, she ran to her house at to the was trying to calm when they heard a banging and someone trying to open the her and her and her and her and wilkinson at the back door.	
heard a female voice screaming from house. Saw the run from the house and heard them screaming that someone was breaking into their residence. He ran towards the He saw Wilkinson on the ground at the side of the house and saw Deputies Sierra and Steve Dodson attempting with difficulty to handcuff him. Wilkinson was yelling incoherently and cursing at the deputies. The deputies ultimately succeeded in their efforts to arrest Wilkinson. He was not armed.)
Wilkinson was transported by paramedics to Harbor General Hospital, where he was treated in the emergency room for a through-and-through gunshot wound to the thigh. He was later approved for booking and was transported to the Los Angeles County Jail	
The property Wilkinson stole from Big K-Mart was recovered by Loss Prevention That property included men's clothing, shoes, underwear,	

Captain James Curtis November 19, 2007 Page 4 of 5





APPLICABLE LAW

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent. California Jury Instructions – Criminal (CALCRIM) 3470 and Penal Code §§ 692–694.

The California Court of Appeal has held that actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577. Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal.App.2d 575

In Graham v. Connor (1989) 490 U.S. 386, the United States Supreme Court held that the reasonableness of the force used "requires careful attention to the facts and circumstances" of the particular incident "including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." (*Id.*, at 396) Further the Court stated, "[t]he "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight." (*Id.*, at 397) Moreover, "[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain and rapidly evolving — about the amount of force that is necessary in a particular situation." (*Id.*, at 397-398)

Captain James Curtis November 19, 2007 Page 5 of 5

"...Thus, under Graham, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes "reasonable" action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure." Smith v. Freland (6th Cir. 1992) 954 F.2d 343, 347. Graham's definition of reasonableness has been described as "comparatively generous to police in cases where potential danger, emergency conditions or other exigent circumstances are present" (Roy v. Inhabitants of the City of Lewiston (1st Cir. 1994) 42 F.3d 691) and also as giving police "... a fairly wide zone of protection in close cases ..." Martinez v. County of Los Angeles (1996) 47 Cal.App.4th 334.

CONCLUSION

The evidence examined in this investigation indicates that Thomas Wilkinson committed a theft at Big K-Mart and fled from the scene on foot. He fled from Sheriff's deputies, who had ordered him to stop. In the course of his flight, he broke into an occupied residence, and attempted to break into two others, also occupied. Wilkinson posed a grave danger to the occupants.

break into two others, also occupied. Wilkinson posed a grave danger to the occupants.	
LASD Deputy was attempting to locate Wilkinson when he heard a woman's screams got me, he's in my house." He saw break away from Wilkinson and run from her home with Wilkinson in pursuit. Wilkinson appeared to be mentally disturbed. He would not comply with the deputy's commands to show his hands and to lie on the ground. Wilkinson became belligerent, stating "fuck you just shoot me," and charged at short at him. Wilkinson continued to refuse to obey commands to get down and show his hands. Believing that the shome was still occupied and Wilkinson would take a hostage, shot at Wilkinson. Wilkinson was wounded in the thigh.	
We find that Wilkinson's actions provoked Deputy to act in lawful self-defense and defense of others. We are closing our file and will take no further action in this matter.	
Very truly yours,	
STEVE COOLEY District Attorney	
By Susa Ichis Susan Schwartz	
Deputy District Attorney (213) 974-5089	
c: Deputy Serial # Serial #	

Los Appeles County Sheriff's Department Officer Involved Shooting

Page <u>1</u> of <u>5</u>

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12/00

Officer Involved Shooting

URN: 006-07356-1698-065

Page 2 of 5

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[23] .223 caliber (40) .40 caliber										WW) Other calibe
				-			(23) .2	23 camper (40) .40 cal	1001	

FORCE APPLIED (one code per block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E-1	S-1	FH	BR	9	Y	Y	GS	LE

Officer Involved Shooting Involved Employee Information

URN: 006-07356-1698-065

Page _3_of _5

				Involve	Empl	oyee		The Control of the Co	
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	Sex: Race:	Rank DEPUTY SHI	RIFF	Unit Assignme	nt:		Work A	etc.):	
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	Haspitat Admission?	Hospital Name:	_		_		Corone	r Case #	teten de word?
	Hospital Admission? Hrs of sleep prior to shooting:	Duty Time (hrs)	Chathing	Coroner Case (circle only one):			Other F	actors: Ol #OB II	Interviewed?
	7		Ptain (Clothes no Vest	Raid Jack	ket w/ Vest	Outer	actors: Class "C" Un	litorm
		Weight: 215	Raid J	Jolhes w/ Vest lackel no Vest	Uniform of				
	Range Qualification Date:		PPC Qu	salification Date:				Laser Training Date:	
	Certified with Weepon Used?	Patrol Certification?		ation Unit.		Prior Shoot	lings? 2	Number of Prior Shootings:	Directed Force:
	Weapons Fired Brand: Beretta	Caliber 9M1	# S	hots 2	Weapon Brand:	s Fired		Caliber	# Shots
	Field Training Officer Emp#	Last Name		-			First N	ате	M.I.
	Field Training Officer Emp#	Last Name					First N	ame	M.I.
					2.2	2.11.112			2
E	Employee#	Last Name					First N	lame	M,I,
	Sex: Race:	Rank		Unit Assignme	nt:		Work A	ssignment (Unit #, Module,	etc.):
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	Field Training Officer Emp#	Last Name					First N	ame	M.L.
E	Employee#	Last Name				. 3.	First N	lame	M.L.
	Sex: Race:	Rank		Unit Assignme	ni:		Work A	etc.):	
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				ation Unit		Prior Sho	otings?[Number of Prior Shootings:	Directed Force:
	Weapons Fired Brand:	Caliber	#8	Shets	Weapon Brand:	s Fired		Caliber	# Shots
	Field Training Officer Emp#	Last Name				First Name			M.I.
	Field Training Officer Emp#	Last Name					First N	ame	M.I.

Officer involved Shooting Suspect Information

URN: 006-07356-1698-065

ARA Last Name Sex: M Race: W Street Address: City State & Zip Code: Work Phone Age: 48 D.O.B 08/21/57 Height: 511 Weight: 190 FBI # CII # Booking # 9073831 Primary Charge: 666 P.C. Petty Theft W/Priors Secondary Charge: Substance Used: Armed? Appreheaded? Mental Illness? City State & Zip Code: Work Phone: Home Phone: Social Security #: Driver's License #: Age: AB D.O.B Height: 511 Weight: 190 FBI # Coroner Case? Coroner Case # Intoxication/Drug Usage? Substance Used: Armed? Appreheaded? Mental Illness? City State & Zip Code: Work Phone: Home Phone: Social Security #: Driver's License #: Age: D.O.B Height: Weight: FBI # Booking # Primary Charge: Secondary Charge Coroner Case? Substance Used: Mil. Sex: Race: Sireel Address: City State & Zip Code: Work Phone: Home Phone: Social Security #: Driver's License #: Age: D.O.B Height: Weight: FBI # Booking # Primary Charge: Secondary Charge: Substance Used: Armed? Apprehended? Mental Illness? Substance Used: Armed? Apprehended? Mental Illness? Criminal History? Vehicle Make		and the state of t		uspecti	nformation		
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SUPPLEMENTAL NON-EMPLOYEF WITNESSES Los Angeles County Sheriff's Department

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Ion-Employee Witnesses.			
Last Name SEE EXHIBIT "A" HOMICIDE SUPPLEMENTAL REPORTS	First Name		M.J.
Street Address FOR ADDITIONAL NON PERCIPIENT WITNESSES	Zip Code	Work Ph	Home Ph
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